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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,496	12/11/2000	Brian Feinberg	19880004100	3605

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EXAMINER

HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/734,496	<b>Applicant(s)</b> FEINBERG ET AL.	
	<b>Examiner</b> Michael W. Hoye	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/23/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: program description region 250 (pg. 11, line 14) is not shown in Fig. 2B, guide grid region 22 and time slot region (pg. 11, line 20) and channel object 214 (pg. 11, line 24) are not shown in Fig. 2C, and 360 in Fig. 3D (see pgs. 16-17). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because in Fig. 6, terminals 608 should be 108 (see spec. pg. 21, line 25). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the

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remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities: on page 10, lines 13-15, time slot region "218" should be --205--, on line 19 channel objects "214a through 214j" should be --212a through 212j--, and on lines 20-21 channel indicators "216a and 216b" should be --214a and 214b-- in order to correspond to the same reference numbers in Fig. 2A. Also, on page 20, line 24, the reference number "3468" should be --568--.

Appropriate correction is required.

### *Claim Objections*

3. Claim 11 is objected to because of the following informalities: the word "stored" in line 2 of the claim should be --store--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 7-9 and 14-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Pandya et al (USPN 6,671,724), cited by the Examiner.

As to claim 1, note the Pandya et al reference which discloses a method for monitoring, from a remote location, operation of a head-end or server/network resources in an information distribution system. Although the Pandya et al reference does not explicitly use the term “headend”, the reference clearly teaches monitoring and managing network resources, including servers, routers, storage devices, gateways, switches, hubs, etc., which are clearly synonymous with the operations of a head-end system (see col. 4, lines 40-61, and the definition of a “headend” according to “The Authoritative Dictionary of IEEE Standards Terms”, pg. 508 and “Newton’s Telecom Dictionary”, pg. 346). The claimed receiving status relating to one or more operations performed at the head-end (or server) is met by the agents and control points, which control and monitor network events, track operational and congestion status of network resources, select optimum targets for network requests, dynamically manage bandwidth usage, and share information about network conditions with customers, users and IT personnel (col. 4, lines 40-46). The claimed forwarding at least a subset of the received status to one or more remote devices is met by the control points monitoring the status of network resources, and sharing the information with management and support systems and with the agents (col. 7, lines

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8-11), where the control points and agents may be loaded on a wide variety of devices, including palm computers, pagers, cellular telephones, and virtually any other networked device having a processor and memory (see col. 7, lines 8-58, more specifically lines 27-39).

As to claim 2, the claimed receiving indications of possible error conditions relating to the one or more operations is met by monitoring the status of network resources and detecting downed or under-performing network resources, such as a downed server (col. 12, lines 43-52; col. 13, lines 9-15; and col. 18, line 45 - col. 19, line 31). The claimed forwarding one or more alert messages to the one or more remote device in response to receiving the indications is met by sending specific messages to users and IT personnel regarding errors and network conditions as described in the sections cited above, as well as in claim 1.

As to claim 3, the claimed polling the head-end for status relating to the one or more operations is met by the monitoring criteria as described above and by the triggering criteria specified in the system policies (col. 18, lines 45-67).

As to claim 4, the claimed receiving identifiers of the one or more remote devices designated to receive status is met by various profiles and parameters (col. 11, lines 43-45 and col. 15, lines 6-22).

As to claim 5, the claimed receiving an indication of capabilities of each remote device designated to receive status is met by the profiles and parameters as described above in claim 4. The claimed wherein status are forwarded to each of the one or more remote devices in conformance with the indicated capabilities is inherent to the systems and methods disclosed by the Pandya et al reference, since the status forwarded to one or more remote devices, such as a

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pager, cellular telephone, palm computer, or other networked device, would have to be in conformance with the indicated capabilities in order for the system to function properly.

As to claim 7, the claimed receiving an indication of a particular reporting level for each remote device designated to receive status, and wherein status are forwarded to each of the one or more remote devices in conformance with the indicated reporting level is met by priorities that may be assigned to users or groups of users, as well as configuration of various settings relating to users, applications and resources associated with a particular control point.

As to claim 8, the claimed receiving a response message from a particular remote device, and forwarding the response message to the head-end is met by a user selecting characters or command selections, where a configuration utility may be used for managing configuration information for the control points and agents (col. 5, lines 45-56; col. 6, lines 60-66; col. 7, lines 27-58; col. 13, lines 20-36; col. 14, lines 2-4 and col. 20, line 39 – col. 21 line 38).

As to claim 9, the claimed received message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end is met by the configuration utility may be used for managing configuration information for the control points and agents as described in claim 8.

As to claim 14, the claimed received status includes bit rates for a plurality of types of data being provided from the head-end is met by bit rate and other performance information that may be reported and shared, and may also be used to compile and maintain statistics (col. 11, line 36 – col. 12, line 29).

As to claim 15, the claimed at least one of the one or more remote device is a pager is met by the remote device or control points and agents may be loaded on a pager as described above in claim 1.

As to claim 16, the claimed at least one of the one or more remote device is a cellular telephone is met by the remote device or control points and agents may be loaded on a cellular telephone as described above in claim 1.

As to claim 17, the claimed at least one of the one or more remote device is a wireless device is met by the remote device or control points and agents may be loaded on a wireless device, such as a palm computer, a pager, a cellular telephone, or any other networked device having a processor and a memory as described above in claim 1 (see col. 4, lines 62-67 and col. 7, lines 33-49).

As to claim 18, the claimed status and messages are forwarded via a standard messaging protocol is met by the communications protocols as described in col. 2, lines 50-67 and col. 5, line 57 – col. 6, line 41).

As to claim 19, note the Pandya et al reference which discloses a method for monitoring, from a remote location, operation of a head-end or server/network resources in an information distribution system. Although the Pandya et al reference does not explicitly use the term “headend”, the reference clearly teaches monitoring and managing network resources, including servers, routers, storage devices, gateways, switches, hubs, etc., which are clearly synonymous with the operations of a head-end system (see col. 4, lines 40-61, and the definition of a “headend” according to “The Authoritative Dictionary of IEEE Standards Terms”, pg. 508 and “Newton’s Telecom Dictionary”, pg. 346). The claimed receiving information relating to one or



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more operations performed at the head-end (or server), wherein the received information includes status and indications of possible error conditions relating to the one or more operations is met by the agents and control points, which control and monitor network events, track operational and congestion status of network resources, select optimum targets for network requests, dynamically manage bandwidth usage, and share information about network conditions with customers, users and IT personnel (col. 4, lines 40-46), as well as, monitoring the status of network resources and detecting downed or under-performing network resources, such as a downed server (col. 12, lines 43-52; col. 13, lines 9-15; and col. 18, line 45 - col. 19, line 31). The claimed receiving identities of one or more remote devices designated to receive the information relating to the one or more operations is met by various profiles and parameters (col. 11, lines 43-45 and col. 15, lines 6-22). The claimed forwarding at least a subset of the received information to one or more remote devices is met by the control points monitoring the status of network resources, and sharing the information with management and support systems and with the agents (col. 7, lines 8-11), where the control points and agents may be loaded on a wide variety of devices, including palm computers, pagers, cellular telephones, and virtually any other networked device having a processor and memory (see col. 7, lines 8-58, more specifically lines 27-39).

As to claim 20, note the Pandya et al reference which discloses a method for remotely monitoring and controlling operation of a head-end or server/network resources in an information distribution system. Although the Pandya et al reference does not explicitly use the term "headend", the reference clearly teaches monitoring and managing network resources, including servers, routers, storage devices, gateways, switches, hubs, etc., which are clearly

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synonymous with the operations of a head-end system (see col. 4, lines 40-61, and the definition of a “headend” according to “The Authoritative Dictionary of IEEE Standards Terms”, pg. 508 and “Newton’s Telecom Dictionary”, pg. 346). The claimed providing to one or more remote devices status relating to one or more operations performed at the head-end is met by the agents and control points, which control and monitor network events, track operational and congestion status of network resources, select optimum targets for network requests, dynamically manage bandwidth usage, and share information about network conditions with customers, users and IT personnel (col. 4, lines 40-46), as well as, monitor the status of network resources and detecting downed or under-performing network resources, such as a downed server (col. 12, lines 43-52; col. 13, lines 9-15; and col. 18, line 45 - col. 19, line 31), and where the control points and agents may be loaded on a wide variety of devices, including palm computers, pagers, cellular telephones, and virtually any other networked device having a processor and memory (see col. 7, lines 8-58, more specifically lines 27-39). The claimed receiving from a particular remote device one or more response messages is met by a user selecting characters or command selections, where a configuration utility may be used for managing configuration information for the control points and agents (col. 5, lines 45-56; col. 6, lines 60-66; col. 7, lines 27-58; col. 13, lines 20-36; col. 14, lines 2-4 and col. 20, line 39 – col. 21 line 38). The claimed adjusting at least one parameter of a particular operation performed at the head-end in accordance with the one or more response messages is met by the configuration utility may be used for managing configuration information for the control points and agents as described above.

As to claim 21, the claimed providing to the one or more remote devices indications of possible error conditions relating to the one or more operations performed at the head-end is met

by monitoring the status of network resources and detecting downed or under-performing network resources, such as a downed server (col. 12, lines 43-52; col. 13, lines 9-15; and col. 18, line 45 - col. 19, line 31), and by sharing information about network conditions with customers, users and IT personnel (col. 4, lines 40-46).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pandya et al.

As to claim 6, although the Pandya et al reference does not explicitly disclose that the claimed indicated capabilities for each remote device is indicated as text, graphics, or a combination thereof, the examiner takes Official Notice that it is notoriously well known in the art of interactive remote devices associated with a network to include indicated capabilities for each remote device, such as text, graphics or a combination thereof, for the advantage of providing proper configuration for communications with each remote device. For example, some types of remote devices may only have text or graphics capabilities, such as a pager, while a computer with display or monitor have the capability to display both text and graphics, and it would be beneficial to transmit the status information to a remote device according to the device's indicated capability. Therefore, it is submitted that it would have been clearly obvious

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to one of ordinary skill in the art at the time of the invention to have included with the indicated capabilities for each remote device an indication or text, graphics, or a combination thereof for the advantage given above.

As to claims 10-13, although the Pandya et al reference does not explicitly disclose the claimed received status includes status relating to encoding operations performed at the head-end, status for one or more buffers used to store encoded data at the head-end, status relating to multiplexing operations performed at the head-end, and status relating to a particular transport stream transmitted from the head-end, the examiner takes Official Notice that it is notoriously well known in the art of monitoring head-end operations to include features for monitoring the status of encoding operations, monitoring the status for one or more buffers used to store encoded data, monitoring the status relating to multiplexing operations performed, and monitoring the status relating to a particular transport stream transmitted from the head-end, for the advantages of providing a verification that proper encoding, memory buffering, multiplexing and transport stream transmission has occurred according to the desired parameters of the system operator(s). Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have included the features described above with the monitoring of head-end operations for the advantages given above.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chavez, Jr. et al (USPN 5,884,144) – Discloses maintenance and administration of remote systems via radio pager.

Del Castillo et al (USPN 6,275,166) – Discloses a RF remote appliance control/monitoring system.

Dziekan et al (USPN 6,711,135) – Discloses a HFC access network management system.

Silverman (USPN 6,307,862) – Discloses a method and apparatus for monitoring and controlling a local area network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is (571) 272-7346.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (571) 272-2600.

Michael W. Hoyer  
March 9, 2005

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**GENOLOGY CENTER 2600**